

Office of the Secretary of Defense

§ 174.11

(c) Any amount paid in the future should take into account the time value of money and include repayment of interest.

(d) Additional provisions may be incorporated in the conveyance documents to protect the Department's interest in obtaining the agreed upon consideration, including such items as predetermined release prices, or other appropriate clauses designed to ensure payment and protect against fraudulent transactions.

(e)(1) An EDC without consideration may only be made if—

(i) The LRA agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the LRA during at least the first seven years after the date of the initial transfer of property shall be used to support economic redevelopment of, or related to, the installation; and

(ii) The LRA executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision.

(2) The following purposes shall be considered a use to support economic redevelopment of, or related to, the installation—

- (i) Road construction;
- (ii) Transportation management facilities;
- (iii) Storm and sanitary sewer construction;
- (iv) Police and fire protection facilities and other public facilities;
- (v) Utility construction;
- (vi) Building rehabilitation;
- (vii) Historic property preservation;
- (viii) Pollution prevention equipment or facilities;
- (ix) Demolition;
- (x) Disposal of hazardous materials generated by demolition;
- (xi) Landscaping, grading, and other site or public improvements; and
- (xii) Planning for or the marketing of the development and reuse of the installation.

(f) Every agreement for an EDC without consideration shall contain provisions allowing the Secretary concerned to recoup from the LRA such portion of the proceeds from its sale or lease as the Secretary determines appropriate if the LRA does not use the proceeds to

support economic redevelopment of, or related to, the installation for the period specified in paragraph (e)(1) of this section.

§ 174.11 Leasing of real property to non-Federal entities.

(a) Leasing of real property to non-Federal entities prior to the final disposition of closing and realigning installations may facilitate state and local economic adjustment efforts and encourage economic redevelopment, but the Secretary concerned will always concentrate on the final disposition of real and personal property.

(b) In addition to leasing property at fair market value, to assist local redevelopment efforts the Secretary concerned may also lease real and personal property, pending final disposition, for less than fair market value if the Secretary determines that:

(1) A public interest will be served as a result of the lease; and,

(2) The fair market value of the lease is unobtainable or not compatible with such public benefit.

(c) Pending final disposition of an installation, the Secretary concerned may grant interim leases which are short-term leases that make no commitment for future use or ultimate disposal. When granting an interim lease, the Secretary will generally lease to the LRA but can lease property directly to other entities. If the interim lease (after complying with NEPA) is entered into prior to completion of the final disposal decisions, the term may be for up to five years, including options to renew, and may contain restrictions on use. Leasing should not delay the final disposal of the property. After completion of the final disposal decisions, the term of the lease may be longer than five years.

(d) If the property is leased for less than fair market value to the LRA and the interim lease permits the property to be subleased, the interim lease shall provide that rents from the subleases will be applied by the lessee to the protection, maintenance, repair, improvement, and costs related to the property at the installation consistent with 10 U.S.C. 2667.